

SPECIAL SESSION, TUESDAY, JANUARY 15, 2013, 6:00 P.M.

The Mayor and City Council met in Special Session on Tuesday, January 15, 2013 with the following members present: Mayor Pro Tem Ana Diaz, Council Members Rivas, Garcia and Gonzales; Assistant City Manager Squyres and City Secretary Raines. Council Member Lee and City Manager Maner absent due to illness and City Attorney DeFoyd absent due to a prior commitment.

Mayor Pro Tem Diaz stated that the third item on the agenda was Council action on the Variance Boards recommendation at 1215 Akron.

Assistant City Manager Squyres gave a brief update stating that this was a project that was proposed and they had ask for two things, they had ask for a zoning change and the Zoning Board recommended to give them a Specific Use Permit and then on November 20<sup>th</sup>, the City Council voted to grant the Special Use Permit to have a machine shop at 1215 Akron but the other thing they wanted were three setback changes so that had to go to the Variance Board and the reason for the setback lines was they wanted to orient that business toward Akron so Akron would be the front of the property and he would show the diagrams as we get into it. Mr. Squyres advised that the Variance Board met last Tuesday night and couldn't come to a unanimous decision, it was a 2 -2 vote and it had to come to City Council for a final decision and he believed that parties from the applicant were here and at least one or two neighbors were here as well.

Mayor Pro Tem Diaz ask Mr. Squyres to do a power point presentation so that everyone would understand what the setback request was for.

Mr. Squyres presented the power point presentation showing the proposed construction and the neighboring properties and how this would affect these properties.

Mayor Pro Tem Diaz ask if this wasn't giving the neighbors a little bit more room from the fence line.

Mr. Squyres advised that the fence line was going to be where it was now but between the fence and building was going to be a gully to channel storm water and ask Mr. Schmidt to correct him if he misspoke.

Council Member Garcia ask if the gully that was going to be between that five foot marker was for rain water collection which was a concern that was brought up at the Variance Board meeting and that would be taken care of.

Mr. Sqsyres stated that it was his understanding that the initial plan was that they were going to ring the property with a 2 ft. culvert basically and it was going to be in ground pipe in addition to that. He reminded everyone that the purpose of this meeting was to look at these setback lines, that City Council had already taken action on the property itself for the use of the property by granting the Special Use Permit so the primary purpose tonight was looking at those specific setback lines and we had the building official here and he could speak to these issues if they would like him to do that.

Council Member Gonzales ask if the upper tip on the vertical line was actually where the building ends or begins.

Mr. Sqsyres advised that it was actually going to begin a little bit further and pointed out where it would be on the drawing.

Someone from the audience ask if he had a pointer and he advised that he did not but he could get up and point if needed.

Council Member Gonzales addressed Mr. Schmidt that he drove by the property earlier and saw the stakes closer to the Oswego side street and ask if that was the actual boundaries.

Mr. Schmidt stated that was actually where the metal pins are when they do surveys, actual property line boundaries and the pins on the north would be 10 ft. south of those. He advised that another reason the building was set to the rear, the intersection of Oswego and Akron, the building being set back gives a better view on cars on Oswego, they have a stop sign so when they get to the intersection, the building being setback to the rear gives them a better view to the south, the north wouldn't be a problem.

Council Member Gonzales ask how long the proposed building would be and was advised that the building was proposed to be 60 by 110.

There was discussion on the height of the building and that the old residential driveway would meet the requirements and it would be an empty driveway the majority of the time.

Council Member Gonzales ask Mr. and Mrs. Stiles how they felt about this.

Mr. Stiles stated that he was all for progress but he really didn't like the fact that he was going to move that building ten foot forward, that he had no problem with it five foot from the back of his fence but he had plenty of room behind him to put that building and it just made it really difficult when he backed out of his driveway, that he would be in the street before he could see around his building or if he had a car parked there. He stated

that you had 25 ft. off that street or off those pins and was he going to move them forward, he thought he was crowding it and he was not for it and he would rather see it moved back and still look like a residential area, not a commercial area.

Council Member Garcia ask if it could go any other direction. Mr. Squyres advised that he thought the original rationale for doing what was proposed was the primary concern voiced to date was the height of the structure and the viewing angle.

Mr. Schmidt advised that with the proposed drawing they had with the building set 10 ft. off the pin, it left him approximately 33 ft between his two buildings and that 33 ft. he could park cars in, he could move things through the building from that side. He stated that he would not be using Oswego Street for any purpose at all. If he moved the building 5 ft. closer to the other building that would cut him down to approximately 28 ft. to try to move trucks and trailers or anything else around the end of the building so if he couldn't park cars on the south end of the building and move stuff there, then the cars would have to park on the north end which goes back to the other problem, nobody wants cars parked on the north side of the building and he didn't plan on parking cars. He stated the driveway that was already there was used as a house driveway so if you have to have handicapped parking, why not use the driveway that has always been there, that made sense to them, the rest of it though was that if he lost the space between the existing building and the new building he was forced to go to the other end and they really didn't want to even approach that end of it, they wanted to keep everything as far south as they could.

Mr. Squyres stated that it might be helpful if Mr. Schmidt or Mr. Spinks could point out in the picture about where the building would be on there and that might give them some idea of the visibility rounding that corner. He ask Rick how far from the center of the street was current. Mr. Spink advised that if you went 30 ft from the center of the street, that would be the property line. Mr. Squyres pointed out that you could see that and showed where it was on the drawing. There was discussion on the distance from the property line for a fence and Mr. Spink explained the fence requirements.

There was discussion on Mr. Stile having visibility backing from his driveway and Mr. Schmidt estimated that he would have at least 20 ft. and then another 10 Ft..

Mr. Squyres stated that Mr. Stiles had a concern about getting a boat or trailer in or out and the two parties had talked about the fence they indicated earlier and they had agreed that the fence could be moved to Mr. Stiles gate so that he could negotiate his truck and trailer around a little better. Mayor Pro Tem Diaz stated that would give him more room.

Mr. Squyres stated that he called both parties and ask them if they had anything they wanted to submit and Mr. Schmidt did submit a couple of things and he showed pictures of similar situations. Mr. Schmidt stated that he wasn't asking for anything that didn't already exist in Jacinto City.

Mrs. Stiles ask Mr. Squyres if he said that he ask both parties if they wanted to submit something and he replied that he had talked with her husband today, that the other day they had ask if we could put these things on a large screen and that was why they wanted to do it. Ms. Stiles stated that she did speak to both Schmidt people and she did speak to them because she wanted to get a better understanding and like she told him, he was talking nuts and bolts and she was shoes and purses so he was going to have to explain it to her because she didn't understand and she wanted to get a better understanding, the safety issue was her main concern and the other thing that her husband brought up and she wasn't aware of was backing up, would they be able to see when they backed up their driveway and after talking to him and he explained it to her, she had a better understanding and she and her husband discussed it and she didn't know, she didn't want a building next to her house but she was all for success and she understood, she just wanted everything above board and she would like for everybody to address them, even though he had been here longer, it is not how long you live here, it is the safety issue and the fact that they need to have consideration for them because they were their neighbors as well.

Council Member Gonzales advised Ms. Stiles that as a property owner himself, he could see her point, that for so many years she had walked out her front door and looked to her left and see for a distance and now it might end with this building and the thing is he wondered if Mr. Schmidt had given any thought about maybe a compromise with not as long a building and ask if he could do it with a shorter building, the building would remain the same height but be a shorter building to maybe accommodate some of Ms. Stiles concerns.

Mr. Schmidt stated that he thought shortening the building 10 feet wasn't going to get you enough of a view to really satisfy what they were saying, their point was they didn't want the building there and moving it back he was really, now that it has an Akron Street address, the one that they were actually questioning on the setback was not where he was in violation of anything that was on the city books to do, he just made that on the application so that everybody would know where the building was going to set. He stated the setback in the very back of the property, like it said there was a safety issue, more room on Akron and one of the things he was satisfying was, he would not conduct any of their work on that side of the building, nothing would be on the east side of the building so he was already giving up usage of two sides of the building for anything other than it is just a wall sitting there. He stated that they wouldn't be building a building that size if they

didn't need it but if he shortened it 30 ft. they still wouldn't want it there, that was why they were here and the council had to make the difficult decision.

Council Member Garcia stated that she was at that meeting and she took into consideration everything that was said, talking about the safety of the children and it had been stated that no kind of activity will be going on on Oswego. She stated that she passed by there and stop on Saturday, they were working and she couldn't hear any noise and everything that was discussed on that Tuesday meeting she make sure she listened too, she gave Chief Ayala a call to find out if any complaints had been turned into his department and if that business owner was a problem, she definitely would not want there to be a problem with the neighbors. She stated the next day it rained and she called Lon Squyres to see about the flooding because that was a concern that was brought up on Tuesday and there was nothing there to be concerned about. She stated it was a difficult decision, they were here to listen to both sides and it wasn't easy being on their side of the seat but she was sure that whatever they decided, the building would be up, they were just here to decide the setback line issue.

Mr. Schmidt stated that one thing that was brought up in the meeting before was the safety of children and he brought with him tonight all the men that worked with him and with exception of two of them, all the rest of these men have children and wives and to think that any family man would let something happen to a child right in front of them, it bothered him when he heard it in that meeting and it bothered him now, there had never been a child hurt any where remotely around them, that when kids came by they stopped and watched them go, children's safety would never be an issue with them.

Mayor Pro Tem Diaz stated that she understood that there were no complaints about the business of any kind and ask if that was correct and was advised it was.

Chief Ayala stated that he would just like to add that ever since Schmidt Machine Shop had been there, they had never had any issues having to do with safety, he had never seen anybody disrespectful there and they have had no complaints whatsoever in the 31 years that he had been here.

Some gentlemen, who did not introduce himself, ask if the rest of the street was going to be pledged by this too, was he going to have to look forward to a building beside his house or was he going to have to move. He was ask to stated his name and address and he stated Ronnie Wooten, 10704 Oswego and was this going to continue.

Mayor Pro Tem Diaz stated that as she understood it, he had a residential property.

Chief Squyres advised Mr. Wooten that his property was already connected to the next property over which he previously owned which allowed him to come to them and ask for a Special Use Permit to accomplish this and for someone to do the same thing next to him, they would have to go before the zoning board and ask for one of two things, to either rezone the property or they would have to get a special use permit to do that and those are not easily accomplished. He advised that when the meeting was held, there was nobody here to speak out against it so there was a majority to allow it and then it went to City Council for approval. He stated that a lot of people come to city council for this type of things and they think that just because they get a zoning change or a special use permit or variance that is the end of it and they can build anything they want but they have to comply with all building codes and sometime they don't go forward with the project because of various reasons.

Council Member Garcia stated that she just wanted to add that by assigning that Special Use Permit, they were not changing it to commercial because if they did, in the future the building could get torn down and we could have a club there on the block because it was commercial but they were not doing that, they were keeping it as residential, just giving the permit for that specific use only.

Mr. Stiles stated that more than anything, the first meeting they held, unless they read the Jacinto City mail, which he generally didn't, and he said it was on the marquee but he didn't drive through that way and he thinks the people involved when they did this first think should be notified by registered mail or something, it just didn't seem like to him it was right, like they were really underhanded down here. He stated they claimed it was legal and he really didn't appreciate it himself that he didn't hear about it except when the neighbors came and told him about it, that they really needed to be at the next meeting and he did go and had been at everyone since, in fact these were the first meetings he had ever been too, but like he said, he really didn't want it there, it would drive his property price way down when he sticks that building there and he really didn't want it up on the street and if he wanted to move it back, that was fine, he really didn't think it needed to be up there on the street where it was 15 ft. out from the stakes where he had to back out and run over somebody because he can't see down the road, he had plenty of room to move it toward his property, back to his original property but that was their decision but he just wished they would consider that when they do it.

A motion was by Council Member Garcia that the Council take action on the Variance Board's 2/2 tie at 1215 Akron and approve the setback request.

Council Member Garcia's motion died for lack of a second.

A motion was made by Council Member Rivas and seconded by Council Member Gonzales to deny the request to change the setback lines at 1215 Akron. Vote: 2 For 1 Against (Garcia)

4. Assistant City Manager Squyres advised that this was a zoning specific issue, the request was from Mr. Perez for a Specific Use Permit for apartments, it didn't matter where you wanted to build in the city, in any zone whatsoever to have an apartment complex, you had to apply for a specific use permit and the zoning board met and unanimously voted to turn down the request for apartments on Lane Street.

Ms. Vickie Smith, 11007 Lane Street, stated that she had lived in Jacinto City for 50 years, and as she said before, she was not going to make a long story but they had a choice, they had always worked on the other side of town but they had lived on this side of town because they like Jacinto city, they feel safe here, they like the people here and they were happy here but they were very disturbed about what was proposed. She stated that they had kept their house up, remodeled it as well as other people on that street and to propose all of those apartments right next door to them to cause a lot of issues so they were very disturbed about it because they don't want to move from Jacinto City (the meeting was paused to allow the noise of people leaving to quite down).

There was a question from the audience asking about the previously discussed building and Mayor Pro Tem Diaz advised that the building would be put there, they had already discussed and passed that but they didn't pass the request for the setback lines but they would still have a building there.

Ms. Smith continued stated that they were really concerned about a lot of issues with having those apartments right there in a residential area and the situations that it can bring, they know their property value will go down and they were concerned with what else was going to happen and this was something they were very opposed too and they just don't want to see, in a nice area they are living in now, them start putting all of these apartments and having the issues that go with them. She stated that she was not saying that he would not maintain them very well but that was a lot of apartments to put right next to a residential home.

Mr. Douglas Smith, 11007 Lane Street, he stated that he had lived there for 75 years and it had all been residential and Mr. Perez wanted to build 25 apartments in there and there was not enough room for but about eight with adequate parking and a little grass and that was about all you could put in there and he said it was going to be a beautiful gated community and 25 apartments right next to his house would devalue his house immensely and he had stayed there, remodeled his house about three times and it was a lot more than it was when he first built it. He stated that they were always talking about wanting to make

Jacinto more beautiful, to raise the value of property in Jacinto city and the only one who keeps their apartments up around here is Sylvia Cureton and she keeps them up well, they are maintained well and they were not stacked on top of each other, she has swimming pools, a play area, grounds where people can go out and have picnics on and sit in the shade of the trees and they want to put 25 apartments on an acre and with two people per apartment that is 50 cars and how are they going to squeeze that in and he discussed how high the apartments would be down his side of the property and across the back and he had a nice house there and he had remodeled with top of the line products because he never thought this would happen to him in Jacinto city. He stated that his mother and himself had been living there and paying taxes for 75 year and he thought they had paid their amount of taxes over the years and when they bought that property, they said they were going to build them a home there until about a month ago they decided not to build their home there and was going to put apartments there. Mr. Smith stated he thought we had enough apartments on Lane Street and enough traffic going up and down the street as it is and if they put 25 apartments in there and they think they can only rent to certain types of people, that is not law in the united states, if they want to rent that apartment, you had to grant the right or you were going to be sued by the government or the city or whoever take care of that. He continued to express his reason for opposing this request.

Mr. Franciso Perez stated that he owned this property and before he applied for this permit, he spoke with Mr. Smith and he ask him if he had any problem if he built apartments there and he told him no he didn't have any problem at all so he went ahead and spoke with his architect, who drew him a plan for 25 apartments with parking lots and everything, he stated they were open to 15 or 20 apartments as long as they were going to be safe for everybody and nice. He stated that he had his general contractor and he had all plans and he has done due diligent with everybody, that he knows apartments and he would like for him to speak.

Mr. Johnny McGowen said originally Mr. Perez was going to do the apartments and when he submitted the plan, it was zoned for single family homes and that was when he went back to doing a home and they also presented the plans, which had been approved by the city, to build this home, his own personal home but when they were talking to some other people they were told that some things had changed and you do this and that was when they went back and requested to change the zoning on it, they respect and understand the concerns of the adjacent neighbors but they had done their due diligent even before it came to this point to see what it would take to get it resolved and see if it was feasible. He stated that what he said about the government coming in was if you had Section 8 homes and that was not their plant at all. He stated that they had hired a company that had been around for a lot of years and they represented some of the high end town homes and apartments around the city and what they do is the screening for them, they do background checks, etc. and that is the company they would hire to do their stuff for them

to make sure that they have the clientele that they want and this company also goes to different companies and plants in the area and advised the human resources there that this is what we have so they will be catering to that type of people so it was going to be the young professionals, people that come to the area for like a year or so to do jobs in the businesses. He stated that if they were going to cater to that type of clientele then they were not just going to throw up something, and for lack of a better way to put it, it was going to put the shame to the other apartments in the area and it was going to be a structure that he thought the board would be proud of, it was not going to devalue the street, it was going to be gated and went on to describe the immunities that it would have. He stated they wouldn't do this just to make money, he thought it was a win win for the city as well because of the tax benefit it brings to the city. He stated they were going to do what was right and he could show them pictures of what they had built in the past and he guaranteed it would be one of the finest structures in Jacinto city. He stated that he understood that everything had pros and cons but he thought their pros outweighed the cons and crime was everywhere but they were going to do their due diligent to make sure that they brought the right people to Jacinto city, new and younger blood and they had said last week that everything had gone downhill and they were here to bring things back uphill and he trusted that they would take that into consideration and if they chose to vote for this or against it they were going to walk out happy and they would just build a house there but this was one thing that he thought would add greater value for tax purposes for the city.

Mr. Smith stated again that there was no way they could put 25 units on that property and discussed other property of the same size and what was on them. He stated this would devalue his property and a lot of the people around there and a lot of them were here last week when the commission voted against it.

Ms. Irma Gonzalez, 10924 Lane Street, stated that she had been a resident of JC for 25 years and she agreed with Mr. Smith, she understands what they are saying and she doesn't agree, they can control who they rent too but not who the renters bring in and usually that is the problem and like she said, she agrees with Mr. Smith, her neighbors agree, they don't want this on their street, they don't want them as neighbors unless they are residents in a home.

Council Member Rivas ask how close was this from Lane and Holland and was advised that it was about a block and a half, and showed a picture on the power point to help answer the question, stating that it was right next to the current apartments.

There was general discussion concerning the location of the property.

Council Member Gonzales stated that he didn't get the gentleman's name on the end and was advised that it was Johnny McGowen. Mr. Gonzales stated that he had mentioned that they wanted to build them to cater to the industrial type people, when he said that

Page 10 – January 15, 2013

did he mean like those guys that work out of town and come in and need a place to stay while they are doing the work in these industries.

Mr. McGowen stated no, that actually what he meant was a lot of companies come in and do a year turn around contract and those human resources places are seeking apartment places for these individuals that are here that the company pays for their dwelling and so they had contacted through the company they discussed previously because they knew the individuals to seek out to do that so they would usually take them across town because there was nothing in the area that was that nice because this caters to the high end executive and they were generally just here for a year or better and they are looking for an upscale place for them to dwell in while they are here, and they need something like that in this region to house those type of people.

Mr. Smith ask if these apartments were just going to be to move in and out for six months of the year and who would take them when they were empty, that he would like them to build a single family home, that they could build two houses there and again talked about the value of the homes going down.

Ms. Veronica Martinez, daughter of Mr. Perez, stated that the vision they have is executive, high quality people who can afford this type of dwelling, that they were flexible and would consider less apartments, she went over the pros and cons to this, stating that if the council would give them the opportunity they would be pleased.

Mr. McGowen again discussed changing the apartments to less than 25 units.

Mr. Smith asked how many executive were going to bring their kids here to go to GPISD, they make too much money, that there was no way executives were going to live in Jacinto City.

Ms. Martinez advised that they were not looking at families, but if there was a family that was one thing and went on to say that they were looking at a safe place for seniors, not an assisted living but a gated community with no loud noise.

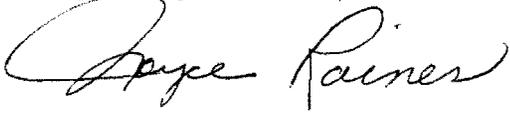
A motion was made by Council Member Gonzales and seconded by Council Member Garcia to follow the recommendation of the Planning and Zoning Board and disapprove

the request for the special use permit for apartments at 10933 Lane Street. Vote: 3 For  
0 Against

Page 11 – January 15, 2013

Mayor Pro Tem Diaz adjourned the meeting at 7:20 p.m..

Respectfully submitted,

A handwritten signature in cursive script that reads "Joyce Raines". The signature is written in black ink and is positioned above the typed name.

Joyce Raines  
City Secretary